

APPLICANTS: Bacus, et al
U.S.S.N.: 10/735,118

Remarks

Claims 1-83 were previously cancelled. Claims 84-113 are pending in this Application.

Claim 108 has been amended to correct a regretted typographical error that has been pointed out by the Examiner. Applicants thank the Examiner for pointing out this error. No new matter has been added in this amendment to claim 108, as support for this amendment can be found throughout the specification as filed.

The present Restriction Requirement has vacated the previous restriction requirement mailed August 23, 2007

Restriction of Inventions:

The Restriction Requirement has required restriction of the Application into two groups, namely Group I (claims 84-107, and 111-113) and Group II (claims 108-110).

Applicants elect, with traverse, the invention of Group I (i.e., claims 84-107 and 111-113).

Applicants respectfully aver that the examination of the claims of both Group I and Group II inventions would not be unduly burdensome because of the close-interrelatedness between the claimed methods (Group I) and claimed kits (Group II). Applicants respectfully aver that the ordinarily skilled artisan, upon reading the specification, would realize that the most logical use for the kits of the Group II invention is to perform the methods of the Group I invention.

Restriction of Species

Group I

In Group I, Applicants elect, with traverse, the following two species: (a) phosphorylation of an S6 ribosomal polypeptide and (b) expression of an IGFR (Insulin-like Growth Factor Receptor) polypeptide.

APPLICANTS: Bacus, et al
U.S.S.N.: 10/735,118

Applicants respectfully aver that there are not an unreasonable number of species in the Group I invention claims. Although different reagents are required, there are really only two different criteria for success. For the expression assays, either the indicated polypeptide is expressed or it is not. Likewise, for the phosphorylation assay, either the indicated polypeptide is phosphorylated or it is not. Thus, Applicants respectfully submit that all species of the Group I invention should be examined.

The claims encompassing the elected species include, without limitation, claims 84-85, 87-89, 98-101, 103, 105-107, and 111-113.

Group II

If Group II claims are examined with the elected Group I claims, in Group II, Applicants elect, with traverse, the combination of (a)—antibody that binds to a phosphorylated S6 ribosomal polypeptide, (b)—antibody that binds IGFR, and (f)—antibody that binds a HER2 polypeptide.

Applicants respectfully aver that there are not an unreasonable number of species in the Group II invention. Further, as all the species are antibodies, Applicants respectfully note that there is really only one criteria for success—the antibody either binds or it does not. Thus, Applicants respectfully submit that all species of the Group II invention, if the Group II invention is examined, should be examined.

The claims encompassing the elected species include, without limitation, claims 108 and 110.

APPLICANTS: Bacus, et al
U.S.S.N.: 10/735,118

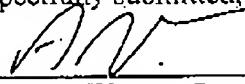
CONCLUSION

Applicants respectfully believe the elected claims are in condition for allowance, and so further and favorable consideration on the merits of the claims of record is respectfully requested.

A petition for a four (4) month extension of time is filed concurrently so this Response is due on or before February 4, 2009.

If there are any questions regarding this filing, the Examiner is kindly requested to contact the undersigned at the telephone number indicated below.

Respectfully submitted,


Andrew J. Warner, Reg. No. 56,049
Attorney for Applicant
CELL SIGNALING TECHNOLOGY, INC.
(978) 867-2343